

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition No. 3179 of 1994

Sahadevappa Mallappa
Honnamavar, alias
Ambiger, Major
Occ: Agriculturist & Coolie
R/o Hosaritti Village
Haveri Taluk
Dharwad District

.. PETITIONER

(By Sri F.V.Patil, Advocate)

- Vs -

1. The State of Karnataka
represented by the
Secretary to Government
Revenue Department
M.S.Building
Bangalore - 560 001
2. The Deputy Commissioner
Dharwad District
Dharwad
3. The Regularisation of
Unauthorised Cultivateion
Committee, Haveri
Dharwad District
represented by its Secretary
4. Ravindra Jangali
5. P.U.Deepali
6. N.G.Mathur
7. K.H.Jangali
8. S.T.Jangali
9. D.B.Hullur
10. N.B. Huchchanavar
11. B.N.Jangali

- 12. M.G.Kuri
- 13. B.M.Doddamani
- 14. N.A.Kundi
- 15. B.G.Baradi

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All are majors
all are residing at
Hosarithi, Haveri Taluk
Dharwad District

.. RESPONDENTS

(By Sri B.E.Kotian, Addl. Government Advocate
for R-1 to R-3 and Sri Satish R.Giriji For R-4
to R-15)

This writ petition is filed under
India praying to quash the order vide
Annexure-F passed by R-3 Committee dt. 7.8.92
and etc.

This petition coming on for
preliminary hearing in 'B' group this day, the
Court made the following:

ORDER

Though this petition is posted in 'B'
group, with the consent of the learned counsel
appearing for the parties, this petition is
taken up for final hearing and disposed of by
this order.

2. The petitioner in this petition
claims to be in unauthorised occupation of
government land measuring 5 acres in
Sy.No.51A/1A/2 situated at Hosaritti Village,
Haveri Taluk, Dharwad District. In this
petition, he has called in question the

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correctness of the order dated 7th August 1992, a copy of which has been produced as Annexure-F passed by the 3rd respondent rejecting the claim of the petitioner for regularisation of the land in question.

3. Sri F.V.Patil, learned counsel for the petitioner submitted that the claim made by the petitioner for regularisation ~~of~~ [✓] the unauthorised occupation of the petitioner in respect of the land in question has been rejected solely on the ground that the petitioner has been cultivating the land in question on behalf of the Basaveshwara Temple. He pointed out that the said finding has been recorded by the 3rd respondent without any evidence and on account of extraneous considerations. He also submitted that the order impugned is liable to be quashed on the ground that it is not a speaking order.

4. Sri Satish Giriji, learned counsel appearing on behalf of the respondents-4 to 15 who are the villagers who have objections for regularisation of the ^{alleged} ~~unauthorised~~ occupation of the land in question by the petitioner submitted that the land in question is

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required to be preserved for the purpose of the Basaveshwara Temple and the petitioner has been cultivating this land on behalf of the Basaveshwara Temple as permitted by the Committee managing the affairs of the Basaveshwara Temple. He also pointed out that the petitioner who was earlier the Secretary of the Committee taking advantage of his position has falsely made a claim for regularisation of his alleged unauthorised occupation. In other words, it is the substance of Sri Giriji's submission that the petitioner was not in possession of the land in question at any time in his individual capacity. He also submitted that the petitioner owns large extents of land and as such he is also not entitled to seek for regularisation of his alleged unauthorised occupation.

5. Sri Kotian, learned Government Advocate supported the impugned order and also the submission of Sri Giriji.

6. Having regard to the facts and circumstances of the case, I am of the view that the impugned order is liable to be quashed on

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the short ground that it is not a speaking order. Except recording a finding that the petitioner was in unauthorised occupation of the land in question on behalf of the Basaveshwara Temple, the 3rd respondent has not considered the evidence on record in detail. Therefore, I am of the view that it is in the interest of justice to quash the impugned order and direct the 3rd respondent-Committee to consider the claim made by the petitioner after giving an opportunity to the petitioner and respondents-4 to 15 and all others who are interested in the lands in question in accordance with law. All the contentions urged by the parties on merits are left open to be urged before the Committee. The petitioner and respondents-4 to 15 are directed to appear before the 3rd respondent-Committee on 27th July 1998. It is made clear that the said parties are not entitled for any fresh notice from the 3rd respondent-Committee. The Committee shall dispose of the matter afresh within three months from 27th July 1998. Accordingly, this petition is allowed and disposed of in terms stated above. Rule is issued and made



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absolute. Office is directed to communicate this order to the Committee within ten days from today.

7. Sri B.E.Kotian, learned Government Advocate is given four weeks' time to file his memo of appearance.



Sd/-
JUDGE